THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22535 of 2000

Dated:28.06.2007

Between:

Chikkala Surya Rao and another.

…Petitioners

and

The Government of Andhra Pradesh,
Rep.by its Secretary,
Social Welfare (LTR),
Secretariat Buildings,
Secretariat, Hyderabad, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22535 of 2000

ORDER:

On a complaint given by the fourth respondent, the third respondent initiated action under Section 3(2) of the Andhra Pradesh Scheduled areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) ('Regulation' for brevity), against the petitioners herein and against one Deyyala Nagaraju. In the notice issued under Form-E, it was alleged that they were liable to be ejected from the land admeasuring Acs.7.00 in Survey No.169 of Molleru Village of Gangavaram Mandal in East Godavari District. After conducting enquiry, the third respondent passed orders on 09.11.1998 ordering ejectment of the petitioners and another. They filed C.M.A.No.21 of 1998 under Section 3(3) of the Regulation, which was dismissed on 22.02.1998. They were also unsuccessful in their revision, which was dismissed on 22.07.2000.

In the affidavit accompanying the Writ Petition, the petitioners contend that they have been in possession of the land from the time of their ancestors, and that there was no transfer of land from tribal to non-tribal or non-tribal to non-tribal, and therefore, Regulation has no application. They also contend that in the absence of any allegation of contravention of Section 3(1) of the Regulation, the action of the third respondent is without jurisdiction. According to them, while passing orders in C.M.A.No.21 of 1998, the second respondent excluded the land in possession of Nagaraju (third respondent before the Special Deputy Collector) on the ground that he

was in possession of the land having got the same from his father-in-law. The case of the petitioners is that the similar treatment was not meted out to them.

A counter affidavit is filed by the District Collector on behalf of respondents 1 to 3 herein supporting the impugned order. It is also averred that the first petitioner did not attend the enquiry and that the second petitioner gave a statement to the effect that he and the first petitioner are in possession of the landed property in Survey No.165 admeasuring Acs.4.80 cents and in Survey No.166 admeasuring Acs.3.58 cents situated at Molleru Village, and that he got Acs.4.00 as his share, and the he is also in possession of the land in an extent of Acs.2.00, but he did not give the details of the same. A further averment is made to the effect that their possession is in contravention of the provisions of Section 3(2) of the Regulation, and therefore, the impugned order was passed.

Learned Counsel for the petitioners reiterated the contentions as noticed hereinabove. In addition to this, he also submits that when the petitioners were not in possession of the petition schedule land, there was no necessity for invoking the provisions of the Regulation as there is no transfer within the meaning of the Regulation.

Learned Government Pleader submits that the second petitioner submitted a statement admitting his possession, and as per the report submitted by the Tahasildar, he could not give the details of Acs.2.00 of land in his possession. Therefore, to the extent of Acs.2.00 only a finding was recorded that they are in possession. Insofar as the other extent is concerned, it was found that there was contravention of Section 3(1) of the Regulation. He also submits that they failed to produce any proof in support of the case that they were in possession of Acs.2.00 in addition to the land in Survey Nos.165/2 and 166.

The question for consideration is in a narrow compass. Action was initiated under Section 3(2) of the Regulation in respect of the lands comprised in Survey Nos.165/2 (Acs.4.80 cents) and 166 (Acs.3.58 cents). The second petitioner gave a statement that he got Acs.4.00 as his share in this land. He also further averred that an extent of Acs.2.00 was in his possession. Considering this aspect, it was found that the petitioners did not place any evidence in support of the allegation that they are in possession of Acs.2.00. Insofar as the land in Survey Nos.165/2 and 166 is concerned, it was found that they were enjoying the same in contravention of Section 3(1) of the Regulation. Therefore, the Special Deputy Collector also observed that the petitioners concealed the fact of having possession over petition schedule lands until it was brought to the notice of the third respondent by the fourth respondent. In view of this, the submission of the learned Counsel for the petitioners is wholly misconceived. The appellate authority as well as the revisional authority were right in affirming the orders of the original authority.

The Writ Petition is misconceived, and is accordingly dismissed. No costs.

_____

(V.V.S.RAO, J)

28.06.2007
vs